

CHAPTER 8

THE UNLAWFULNESS OF REBELLING
AGAINST THE MUSLIM STATE,
ADMINISTRATION AND AUTHORITY

8.1 WHAT IS REBELLION AND WHO IS A REBEL?—TERMS, DEFINITIONS AND SIGNS

In the preceding pages we described the Islamic teachings pertaining to the prohibition of torturing Muslims, killing non-Muslims and bringing harm to the non-combatants of an enemy nation—including their properties and crops. This chapter seeks to determine the magnitude and heinousness of rebellion and terrorism in an Islamic state. Since this chapter deals exclusively with rebellion, we must first explain the meanings of words ‘rebellion’ and ‘terrorism’, and identify the signs of those who engage in them.

8.2 THE LEXICAL DEFINITION OF REBELLION

The Arabic equivalent of the word ‘rebellion’ is derived from the word ‘*baghyun*’, which sometimes implies demand and sometimes oppression and excess. According to the jurists, rebellion means to disobey the commands of a lawful government and launch armed struggle against it.

The philologist Ibn Fāris said:

بَغِيٌّ: أَلْبَاءُ وَالْعَيْنُ وَالْيَاءُ، أَصْلَانِ: أَحَدُهُمَا طَلَبُ الشَّيْءِ، وَالثَّانِي: جِنْسٌ مِنَ الْفَسَادِ . . . وَالْأَصْلُ الثَّانِي: قَوْلُهُمْ بَغَى الْجَرْحُ، إِذَا تَرَامَى إِلَى فَسَادٍ . . . ثُمَّ يُشْتَقُّ مِنْ هَذَا مَا بَعْدَهُ، فَالْبَغْيُ الْفَاجِرَةُ . . . وَمِنْهُ أَنْ يَبْغِيَ الْإِنْسَانُ عَلَى الْآخَرِ . . . وَإِذَا كَانَ ذَا بَغْيٍ فَلَا بُدَّ أَنْ يَقَعَ مِنْهُ فَسَادٌ . . . وَالْبَغْيُ: الظُّلْمُ.

The origin of the word *baghyun* is from the letters *bā*, *ghayn* and *yā*, and it has two primary meanings: [one] to seek something, and [two] a type of depravity. . . . Regarding the second meaning, it is found in their statement, that ‘the wound got septic (*baghā*) or it deteriorated. . . . Then, after this, the other words are derived from it; so it is said that *baghyun* is an adulteress

because she transgresses the limits of chastity and commits fornication. . . . And that *baghyun* from the same origin also implies oppression committed by one against the other. . . . When it becomes someone's habit then mischief generates from his behaviour. That is why *baghyun* is also used to imply violence and oppression.¹

Ibn Nujaym defined rebellion in the following words:

الْبَغَاةُ جَمْعُ بَاغٍ، مَنْ بَغَى عَلَى النَّاسِ ظَلَمَ وَاعْتَدَى، وَبَغَى سَعَى بِالْفَسَادِ، وَمِنْهُ الْفِرْقَةُ الْبَاغِيَّةُ لِأَنَّهَا عُدِلَتْ عَنِ الْقَصْدِ . . . وَفِتْنَةٌ بَاغِيَّةٌ خَارِجَةٌ عَنِ طَاعَةِ الْإِمَامِ الْعَادِلِ .

The word *bughāt* is the plural of *bāgh* (rebel). He who 'transgressed [*baghā*] against people' is the one who oppressed and committed excess. It also means that he spread mischief. From it comes the term *al-firqa al-bāghiya* (the rebellious sect), because it deviated from the middle path . . . and the *fi'a bāghiya* (the rebellious group) is one that does not obey the writ of the state.²

¹ Ibn Fāris, *Mu'jam maqāyīs al-lughā*, p. 144; and Ibn Manzūr, *Lisān al-'Arab*, 14:75–78.

² Ibn Nujaym, *al-Baḥr al-rā'iq*, 5:150.

In Islamic literature, such as hadith books, Qur'ānic exegeses and works pertaining to jurisprudence and doctrine, we find that the terms used for the Islamic state are *jamā'a* [congregation] or Emirate, and that for the ruler, the terms caliph, emir or imam are used. The Prophet ﷺ used the words *jamā'a* and imam when he said, 'Stick to the congregation of the Muslims and their Imam'. (al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-fitan* [The Book of Tribulations], chapter: 'What Should be Done when There is no Congregation', 2:2595 §2273; and Ibn Mājah in *al-Sunan: Kitāb al-fitan* [The Book of Tribulations], chapter: 'On Seclusion', 2:1317 §2979.)

Ibn Khaldūn elaborates on the concept of imamate in the following words: 'The caliphate and emirate refer to the successorship of the possessor of the Sacred Law [the Prophet ﷺ] in safeguarding the religion and the affairs of the world'. (Ibn Khaldūn, *al-Muqaddima*, p. 134.) In contemporary times we have new terms for all sciences, so we have translated some common Islamic terms into the contemporary legal language. The word 'imam' has been translated as 'government', 'Muslim government' and 'Muslim state', and 'obedience' [*ṭā'a, riyāsa*] have been translated as the administration of the state and authority.

Al-Ḥaṣkafī said about rebellion,

الْبَغْيُ لُغَةً: الطَّلَبُ، وَمَنْهُ: ﴿ذَالِكَ مَا كُنَّا نَبْغِ﴾. وَعُرْفًا: طَلَبٌ مَا لَا يَحِلُّ مِنْ جَوْرِ وَظَلْمٍ.

‘Lexically, the word *baghyun* means to seek or demand something. An example of this meaning is in the verse, “That is what we were seeking [*nabghi*]” [Qur’ān 18:46]. Conventionally, it means to seek that which is unlawful, such as oppression, tyranny and terror’.¹

These semantic details are given in lexicons such as *Tahdhīb al-lughā*, *al-Ṣiḥāḥ* and *Lisān al-‘Arab*. These lexical definitions prove that the word ‘rebellion’ means ‘excess’ and ‘oppression’. Furthermore, it also refers to the breach of all legal, constitutional and Islamic limits to spread strife, mischief and chaos in society.

8.3 THE LEGAL DEFINITION OF REBELLION

The lexicologists have provided various definitions for rebellion, all of which converge on the same root meaning. Likewise, numerous legal definitions have also been mentioned by the different schools of Islamic jurisprudence.

8.3.1 REBELLION ACCORDING TO THE ḤANAFĪ SCHOOL OF JURISPRUDENCE

The name of Ibn Humām figures prominently in the Ḥanafī school. He spelled out the most comprehensive definition of rebellion in his book, *Fath al-Qadīr*, and described the different kinds of rebels. He said:

الْبَاغِي فِي عُرْفِ الْفُقَهَاءِ: الْخَارِجُ عَنِ طَاعَةِ إِمَامِ الْحَقِّ. وَالْخَارِجُونَ عَنِ طَاعَتِهِ أَرْبَعَةٌ أَصْنَافٍ:

أَحَدُهَا: الْخَارِجُونَ بِلَا تَأْوِيلٍ بِمَنْعَةٍ وَبِلَا مَنَعَةٍ، يَأْخُذُونَ أَمْوَالَ النَّاسِ وَيَقْتُلُونَهُمْ وَيَخِيفُونَ الطَّرِيقَ، وَهُمْ قُطَاعُ الطَّرِيقِ.

وَالثَّانِي: قَوْمٌ كَذَلِكَ إِلَّا أَنَّهُمْ لَا مَنَعَةَ لَهُمْ لَكِنْ لَهُمْ تَأْوِيلٌ. فَحُكْمُهُمْ حُكْمُ قُطَاعِ

¹ Al-Ḥaṣkafī, *al-Durr al-mukhtār*, 4:261.

الطَّرِيقِ. إِنْ قَتَلُوا قُتِلُوا وَصَلَبُوا. وَإِنْ أَخَذُوا مَالَ الْمُسْلِمِينَ قَطَعَتْ أَيْدِيهِمْ وَأَرْجُلُهُمْ عَلَى مَا عُرِفَ.

وَالثَّالِثُ: قَوْمٌ لَهُمْ مَنَعَةٌ وَحَمِيَّةٌ خَرَجُوا عَلَيْهِ بِتَأْوِيلٍ يَرَوْنَ أَنَّهُ عَلَى بَاطِلٍ كُفِرَ أَوْ مَعْصِيَةٍ. يُوجِبُ قِتَالَهُ بِتَأْوِيلِهِمْ. وَهَؤُلَاءِ يُسَمَّوْنَ بِالْخَوَارِجِ يَسْتَحِلُّونَ دِمَاءَ الْمُسْلِمِينَ وَأَمْوَالَهُمْ، وَيَسْبُونَ نِسَاءَهُمْ وَيُكْفَرُونَ أَصْحَابَ رَسُولِ اللَّهِ ﷺ. وَحُكْمُهُمْ عِنْدَ جَمْهُورِ الْفُقَهَاءِ وَجَمْهُورِ أَهْلِ الْحَدِيثِ حُكْمُ الْبَغَاةِ. . . .

وَالرَّابِعُ: قَوْمٌ مُسْلِمُونَ خَرَجُوا عَلَى إِمَامٍ وَلَمْ يَسْتَبِيحُوا مَا اسْتَبَاحَهُ الْخَوَارِجُ، مِنْ دِمَاءِ الْمُسْلِمِينَ وَسَبِي ذُرَارِيهِمْ وَهُمْ الْبَغَاةُ.

According to the conventional usage amongst the jurists, the word *bāghī* [rebel] denotes the one who rebels against the authority of the government. Those who challenge the writ of the state are four kinds:

[1] Those who rebel without any incorrect interpretation [*ta'wīl*]*—*whether they have a force of arms or not*—*and who seize the wealth of people, murder them and terrorise travellers on the road. They are brigands.

[2] A folk who are just like the aforementioned group. They *do not* have a force of arms, but *do* have an incorrect interpretation. The legal ruling upon this group is that they are considered brigands: if they fight they are to be killed and crucified, and if they steal the wealth of the Muslims the prescribed punishment has to be given to them, in the manner that is well-known [in Islamic law].

[3] A folk who have a force of arms and protection, and who rebel against the writ of the government with an incorrect interpretation and believe that the government is based on falsehood, disbelief or disobedience, and that according to their incorrect interpretation it is obligatory to rebel against it; this group is called Kharijites. They declare lawful the blood and wealth of the Muslims, capture their womenfolk and declare the Companions of God's Messenger ﷺ apostates. According to the majority

of the jurists and the traditionists [*ahl al-ḥadīth*] they are given the same ruling as that of the rebels [*bughāt*]. . . .

[4] A group of Muslims who rebelled against the government, but did not declare lawful what the Kharijites declared lawful, such as shedding the blood of the Muslims and capturing their children. This group is considered amongst the rebels [*bughāt*].¹

Zayn al-Dīn b. Nujaym al-Ḥanafī defined rebels as:

قَوْمٌ مُسْلِمُونَ خَرَجُوا عَلَى الْإِمَامِ الْعَدْلِ، وَلَمْ يَسْتَيْحُوا مَا اسْتَبَاحَهُ الْخَوَارِجُ مِنْ دِمَاءِ الْمُسْلِمِينَ وَسَبَى ذُرَارِهِمْ.

‘A group of Muslims who rebelled against a legitimate government, but did not declare lawful what the Kharijites declared lawful, such as shedding the blood of Muslims and capturing their children’.²

Ibn ‘Ābidīn al-Shāmī defined rebellion in *Radd al-muḥtār* in the following words:

أَهْلُ الْبَغْيِ: كُلُّ فِتْنَةٍ لَهُمْ مَنَعَةٌ. يَتَعَلَّبُونَ وَيَجْتَمِعُونَ وَيَقَاتِلُونَ أَهْلَ الْعَدْلِ بِتَأْوِيلٍ. يَقُولُونَ: «الْحَقُّ مَعَنَا» وَيَدْعُونَ الْوِلَايَةَ.

‘The people of rebellion include every faction that possesses force of arms and seeks to gain power; they fight the people of justice on the basis of an incorrect interpretation, and argue that “the truth is with us” and that they are the true authorities’.³

In *al-Durr al-mukhtār*, al-Ḥaṣkafī described three different kinds of rebels:

ثُمَّ الْخَارِجُونَ عَنِ طَاعَةِ الْإِمَامِ ثَلَاثَةً: قَطَّاعٌ طَرِيقٍ . . . وَبَغَاةٌ . . . وَخَوَارِجٌ وَهُمْ

¹ Ibn Humām, *Fath al-Qadīr*, 5:334.

² Ibn Nujaym, *al-Baḥr al-rā’iq*, 5:151.

³ Ibn ‘Ābidīn al-Shāmī, *Radd al-muḥtār*, 4:262; al-Dasūqī, *al-Ḥāshiyā*, 4:261; and Badr al-Dīn al-‘Aynī in *al-Bināya sharḥ al-Hidāya*, 5:888.

قَوْمٌ لَهُمْ مَنَعَةٌ خَرَجُوا عَلَيْهِ بِتَأْوِيلٍ يَرَوْنَ أَنَّهُ عَلَىٰ بَاطِلٍ كُفِّرَ أَوْ مَعْصِيَةٍ، تُوَجَّبُ قِتَالُهُ
بِتَأْوِيلِهِمْ. وَيَسْتَحِلُّونَ دِمَاءَنَا وَأَمْوَالَنَا، وَيَسْبُونَ نِسَاءَنَا وَيَكْفُرُونَ أَصْحَابَ نَبِيِّنَا ﷺ.
وَحُكْمُهُمْ حُكْمُ الْبَغَاةِ بِإِجْمَاعِ الْفُقَهَاءِ كَمَا حَقَّقَهُ فِي الْفَتْحِ.

Furthermore, those who rebel against the government and spread mischief are three types: brigands [*quttā^c al-tarīq*], . . . rebels [*bughāt*] . . . and Kharijites. As for the Kharijites, they are a folk possessing a force of arms who rebel against the government on the basis of an incorrect interpretation by which they believe it is based on falsehood, disbelief or disobedience, and who believe, according to their incorrect interpretation, that it is obligatory to engage in militancy against the state. They declare lawful the shedding of our blood and the seizure of our wealth, and they capture our womenfolk and declare our Prophet's ﷺ Companions disbelievers. According to the consensus of the jurists, they take the same judgement as the rebels, as he [Ibn Humām] verified in *al-Fath* [*Fath al-Qadīr*].¹

8.3.2 REBELLION ACCORDING TO THE MĀLIKĪ SCHOOL OF JURISPRUDENCE

Imam Muhammad b. Ahmad b. al-Juzayy al-Kalbī, one of the notable jurists of the Mālikī school, wrote:

الْبَغَاةُ هُمُ الَّذِينَ يُقَاتِلُونَ عَلَى التَّأْوِيلِ، وَالَّذِينَ يَخْرُجُونَ عَلَى الْإِمَامِ، أَوْ يَمْتَنِعُونَ مِنَ
الدُّخُولِ فِي طَاعَتِهِ، أَوْ يَمْنَعُونَ حَقًّا وَجَبَ عَلَيْهِمْ كَالزَّكَاةِ وَشَبَّهَهَا.

The rebels are those who fight on the basis of a self-styled interpretation, and who refuse to accept the authority of the state, or who, by force of arms, refuse to obey it, or who refuse to fulfil a duty that is incumbent upon them, such as Zakat and the like.²

Imam al-Dasūqī writes in his marginalia on *al-Sharḥ al-kabīr* in the chapter titled, ‘The Section on Rebellion and Related Matters’:

¹ Al-Ḥaṣkafī, *al-Durr al-mukhtār*, 4:262–263.

² Ibn Juzayy al-Kalbī, *al-Qawānīm al-fiqhiyya*, p. 364.

هُوَ لُغَةً التَّعَدِّي وَيَعْنَى فَلَانٌ عَلَى فَلَانٍ: اسْتَطَالَ عَلَيْهِ. وَشَرَعًا قَالَ ابْنُ عَرَفَةَ: هُوَ
الْإِمْتِنَاعُ مِنْ طَاعَةِ مَنْ ثَبَّتَتْ إِمَامَتُهُ فِي غَيْرِ مَعْصِيَةٍ بِمُغَالِبَةٍ وَلَوْ تَأْوُلًا.

‘Lexically, it means to transgress. It is said “so-and-so *baghā* against so-and-so” if he went against him. Legally, it is, as Ibn ‘Arafa said, “To employ force—even if through a self-styled interpretation—while refusing lawful obedience to a lawfully established government”.’

8.3.3 REBELLION ACCORDING TO THE SHĀFI‘Ī SCHOOL OF JURISPRUDENCE

Imam al-Nawawī penned an entire chapter on fighting rebels in his book *Rawḍat al-ṭālibīn*. He defined the term rebel, saying,

الْبَاغِي فِي اصْطِلَاحِ الْعُلَمَاءِ هُوَ الْمُخَالِفُ لِلْإِمَامِ الْعَدْلِ، الْخَارِجُ عَنِ طَاعَتِهِ بِإِمْتِنَاعِهِ
مَنْ أَدَاءٍ وَاجِبٍ عَلَيْهِ أَوْ غَيْرِهِ بِشَرْطٍ.

‘In the technical nomenclature of the scholars, the term “rebel” denotes the one who goes against the Muslim government, defies and conditionally withholds that which he or others are duty-bound to fulfil’.¹

Zakariyyā al-Anṣārī al-Shāfi‘ī defined rebels, saying:

الْبَغَاةُ هُمْ مُخَالِفُو إِمَامٍ بِتَأْوِيلٍ بَاطِلٍ ظَنًّا وَشَوْكَةً لَهُمْ، وَيَجِبُ قِتَالُهُمْ. وَأَمَّا الْخَوَارِجُ:
وَهُمْ قَوْمٌ يُكْفَرُونَ مُرْتَكِبٌ كَبِيرَةً وَيَتْرَكُونَ الْجَمَاعَاتِ، فَلَا يُقَاتَلُونَ مَا لَمْ يُقَاتِلُوا.

Rebels are those who, possessing strength, go against the government on the basis of a speculative and false interpretation. It is obligatory to fight them [to crush their revolt]. As for the Kharijites, they are a folk who declare those who commit enormities to be disbelievers, and they abandon the community [*jamā‘a*]; they are not to be fought as long as they do not fight.²

¹ Yahyā al-Nawawī, *Rawḍat al-ṭālibīn*, 10:50.

² Zakariyyā al-Anṣārī, *Manhaj al-tullāb*, 1:123.

Imam al-Shirbīnī said in *al-Iqnā*^c:

الْبَغَاةُ جَمْعُ بَاغٍ. وَالْبَغْيُ الظُّلْمُ وَمَجَاوَزَةُ الْحَدِّ. سُمُّوا بِذَلِكَ لِظُلْمِهِمْ وَعُدُولِهِمْ عَنِ الْحَقِّ. وَالْأَصْلُ فِيهِ آيَةٌ: «وإن طَافَتَانِ مِنَ الْمُؤْمِنِينَ أَقْتَلُوا». وَكَيْسَ فِيهَا ذِكْرُ الْخُرُوجِ عَلَى الْإِمَامِ صَرِيحًا لَكِنَّهَا تَشْمَلُهُ بِعُمُومِهَا أَوْ تَقْتَضِيهِ، لِأَنَّهُ إِذَا طَلِبَ الْقِتَالُ لِبَغْيِ طَائِفَةٍ عَلَى طَائِفَةٍ فَلِلْبَغْيِ عَلَى الْإِمَامِ أَوْلَى. وَهُمْ مُسْلِمُونَ مُخَالِفُو إِمَامٍ وَلَوْ جَائِرًا، بِأَنَّ خَرَجُوا عَنْ طَاعَتِهِ بِعَدَمِ انْقِيَادِهِمْ لَهُ أَوْ مَنَعَ حَقَّ تَوَجُّهِ عَلَيْهِمْ كَرَكَاةً بِالشُّرُوطِ الْآتِيَةِ. وَيَقْتَاتِلُ أَهْلُ الْبَغْيِ وَجُوبًا كَمَا اسْتُفِيدَ مِنَ الْآيَةِ الْمُتَقَدِّمَةِ.

The word ‘*bughāt*’ is the plural of *bāgh*, and *baghyun* is oppression and going beyond the bounds. They [the rebels] are given this name because of their oppression and departure from the truth. The basis for this is found in the verse, ‘*And if two parties amongst the believers fight each other . . .*’¹ [Qur’ān 49:9] There is no explicit mention here of rebellion against the Muslim government, but its general import does include it or imply it, because if it is ordered to fight the rebellious of two contending parties, then it is ordered—*a fortiori*—to fight against the one who rebels against the government. These are the anti-government Muslims, even if the government is oppressive. They revolt against the writ of the government through disobeying it or withholding rights due upon them, such as the payment of Zakat with previously mentioned conditions. It is obligatory to fight the rebels, as is inferred from the aforementioned verse.²

Imam al-Shirbīnī has also described the same detail in his other work, *Mughnī al-muhtāj* (4:123).

¹ The complete verse is: ‘*And if two parties amongst the believers fight each other then make peace between them. And if one party goes against [baghat] the other, then all of you together fight the contentious party until they all submit to the command of God*’. ED.

² al-Shirbīnī, *al-Iqnā*, 2:547.

8.3.4 REBELLION ACCORDING TO THE ḤANBALĪ SCHOOL OF JURISPRUDENCE

Ibn Hubayra al-Ḥanbalī described rebellion in the following words:

وَاتَّفَقُوا عَلَى أَنَّهُ إِذَا خَرَجَ عَلَى إِمَامِ الْمُسْلِمِينَ طَائِفَةٌ ذَاتُ شَوْكَةٍ يَتَأَوَّلُونَ مُشْتَبِهًا، فَإِنَّهُ يُبَاحُ قِتَالُهُمْ حَتَّى يَفِئْتُوا.

‘They [the jurists] all concurred that if a party possessing strength rebels against the writ of the Muslim government, with self-styled and mistaken interpretations, it is permissible to fight them until they submit to the writ of the state’.¹

Imam Ibn Qudāma al-Maqdisī defined rebels as:

قَوْمٌ مِنْ أَهْلِ الْحَقِّ خَرَجُوا عَلَى الْإِمَامِ يَتَأَوَّلُونَ سَائِعًا، وَرَأَمُوا خَلْعَهُ، وَلَهُمْ مَنَعَةٌ وَشَوْكَةٌ.

‘A folk from the people of truth [i.e., the Muslims] that rebel against the writ of the state due to some alluring interpretation, and that seek to overthrow the government with the force of arms and strength’.²

Muhammad b. Mufliḥ al-Maqdisī al-Ḥanbalī wrote in *al-Furūc*:

أَهْلُ الْبَغْيِ: وَهُمْ الْخَارِجُونَ عَلَى الْإِمَامِ يَتَأَوَّلُونَ سَائِعًا. وَلَهُمْ شَوْكَةٌ لَا جَمْعَ يَسِيرٌ خِلَافًا لِأَبِي بَكْرٍ. وَإِنْ فَاتَ شَرْطُ فَقْطَاعِ طَرِيقٍ. وَفِي التَّرَغِيبِ لَا تَتِمُّ الشَّوْكَةُ إِلَّا وَفِيهِمْ وَاحِدٌ مُطَاعٌ. وَأَنَّهُ يُعْتَبَرُ كَوْنُهُمْ فِي طَرْفٍ وَلَا يَتِيه.

The rebels are those who rise against the state due to some apparently alluring interpretation, and who possess power; they are not a small group—contrary to the view of Abū Bakr [al-Marwazī]—even if they do not fit the conditions for being considered brigands [*qutṭāc al-tarīq*].

¹ Ibn Hubayra, *al-Ifṣāḥ*, p. 402.

² Ibn Qudāma al-Maqdisī, *al-Kāfī*, 4:147; al-Shirbīnī, *Mughnī al-muhtāj*, 4:123–124; and al-Qarāfī, *al-Dhakhīra*, 5:512.

In *al-Targhib* it is mentioned: ‘They are not considered to have power unless there is one person amongst them who is obeyed [as a leader]’. And they can also be considered [rebels] if they apply their force in any part [of the Islamic state’s jurisdiction].¹

Imam Ibrāhīm b. Muḥammad b. ‘Abd Allāh b. Muflīḥ al-Ḥanbalī writes in *al-Mubdi‘*,

الْبَغْيُ مَصْدَرٌ بَعَى يَبْغِي بَغْيًا إِذَا اعْتَدَى. وَالْمُرَادُ هُنَا الظُّلْمَةُ الْخَارِجُونَ عَنْ طَاعَةِ
الإمام الْمُعْتَدُونَ عَلَيْهِ.

‘*Baghyun* is the verbal noun of the verb *baghā/yabghī*. It is said that someone “*baghā*” if he transgressed. In this context it means the oppressors who rebel and transgress against the Muslim government’.²

Mar‘ī b. Yūsuf al-Ḥanbalī wrote in *Ghāyat al-muntahā*:

هُمْ الْخَارِجُونَ عَلَى إِمَامٍ وَلَوْ غَيْرِ عَدْلٍ، بِتَأْوِيلٍ سَائِعٍ وَلَهُمْ شَوْكَةٌ، وَلَوْ لَمْ يَكُنْ فِيهِمْ
مُطَاعٌ وَيَحْرُمُ الْخُرُوجُ عَلَى الإِمَامِ وَلَوْ غَيْرِ عَدْلٍ.

They are the ones who, with an apparently appealing interpretation, rebel against the Muslim government, even if it is unjust. And they possess power, even if they have no central leader who is obeyed. It is unlawful to rebel against the writ of the government, even if it is unjust.³

Al-Buhūṭī al-Ḥanbalī wrote in *Kashshāf al-qinā‘ ‘an matn al-iqnā‘*, in the chapter on fighting rebels,

هُوَ مَصْدَرٌ بَعَى يَبْغِي إِذَا اعْتَدَى، وَالْمُرَادُ هُنَا الظُّلْمَةُ الْخَارِجُونَ عَنْ طَاعَةِ الإِمَامِ
الْمُعْتَدُونَ عَلَيْهِ.

¹ Ibn Muflīḥ, *al-Furū‘*, 6:147.

² Ibn Muflīḥ, *al-Mubdi‘*, 9:159–160.

³ Mar‘ī b. Yūsuf al-Karmī, *Ghāyat al-muntahā*, 3:348.

‘It [*baghyun*] is the verbal noun of the verb *baghālyabghī*. It is said that someone “*baghā*” if he transgressed. In this context it refers to the oppressive rebels who revolt and transgress against the writ of the state’.¹

8.3.5 REBELLION ACCORDING TO THE JA‘FARĪ SCHOOL OF JURISPRUDENCE

Abū Ja‘far Muhammad b. Ḥusayn al-Ṭūsī, the Ja‘farī jurist, penned an entire chapter in his book *al-Iqtiṣād al-hādī ilā ṭarīq al-rashād*, describing the prescriptions against rebels. He said:

الْبَاغِي هُوَ كُلُّ مَنْ خَرَجَ عَلَى إِمَامٍ عَادِلٍ وَشَقَّ عَصَاهُ، فَإِنَّ عَلَى الْإِمَامِ أَنْ يُقَاتِلَهُمْ. وَيَجِبُ عَلَى كُلِّ مَنْ يَسْتَنْهَضُهُ الْإِمَامُ أَنْ يَنْهَضَ مَعَهُ وَيَعَاوِنَهُ عَلَى قِتَالِهِمْ، وَلَا يَجُوزُ لِعَبِيرِ الْإِمَامِ قِتَالَهُمْ بِغَيْرِ إِذْنِهِ. فَإِذَا قُوتِلُوا لَا يُرْجَعُ عَنْهُمْ إِلَّا أَنْ يَفِيثُوا إِلَى الْحَقِّ أَوْ يُقْتَلُوا، وَلَا يُقْبَلُ مِنْهُمْ عَوْضٌ وَلَا جِزْيَةٌ.

وَالْبُعَاةُ عَلَى صَرِيحٍ: أَحَدُهُمَا: مَنْ لَهُ رَيْسٌ يَرْجِعُونَ إِلَيْهِ. فَهَوْلَاءِ يَجُوزُ أَنْ يُجْتَازَ عَلَى جَرَاحَاتِهِمْ وَيَتَّبِعَ مُدْبِرَهُمْ وَيُقْتَلَ أَسِيرُهُمْ. وَالْآخَرُ: لَا يَكُونُ لَهُمْ فِيهِ رَيْسٌ، فَهَوْلَاءِ لَا يُجَازُ عَلَى جَرِيحِهِمْ وَلَا يُقْتَلُ أَسِيرُهُمْ.

The word rebel denotes everyone who rebels and revolts against a Muslim government. It is the duty of the government to fight them, and it is obligatory upon everyone whom the government drafts [to fight them] to go with it or help it in fighting them. It is impermissible for someone other than the government to fight them—unless it is by its permission. When they are fought, there must be no turning back unless they return to the truth or are killed. Neither tax [in lieu of fealty] nor compensation is accepted from them.

There are two types of rebels. The first type is a group that has a leader to whom they defer. It is permissible to finish off their wounded, pursue those of them who

¹ Al-Buhūti, *Kashshāf al-qinā‘ ‘an matn al-Iqnā‘*, 6:158.

flee [in battle] and kill those of them who are captured. The second type is a group that does not have a leader to whom they defer; their wounded and captured ones are not to be killed.¹

The Jaʿfarī jurist and Qurʾānic exegete, al-Faḍl b. al-Ḥasan al-Ṭabarsī, defined the term ‘rebel’ in *al-Muʿtalif min al-mukhtalif*,

الْبَاغِي هُوَ الَّذِي يَخْرُجُ عَلَى إِمَامٍ عَادِلٍ وَيَقَاتِلُهُ، وَيَمْنَعُ مِنْ تَسْلِيمِ الْحَقِّ إِلَيْهِ.

‘A rebel is the one who revolts and fights against a Muslim state, and refuses to give it his rightful due’.²

These quotes demonstrate that the renowned and the distinguished scholars of the Muslim world have described rebellion in much the same way, and with little variation, despite their different eras, doctrines and schools of jurisprudence. It is important for us to know the conclusions of the various jurisprudential traditions so we may assimilate them into one single definition.

All of the esteemed jurists interpreted the term ‘rebels’ as a group whose actions spring from extremism and who challenge the authority of the government on the basis of their self-styled interpretations. The terrorism we are facing today belongs to the same category and deserves the same treatment meted out to the terrorists of the past. If enforced, the aforementioned legal precepts would uproot terrorism.

8.3.6 REBELLION ACCORDING TO CONTEMPORARY JURISTS

The sixteenth session of the Muslim World League was held in the Islamic Academy of Jurisprudence in Mecca, from January 5 to January 10, 2002, under the supervision of King Fahd bin Abdul Aziz, the Custodian of the two Sanctuaries. After five days of deliberation, the ‘Makka Declaration’ defined terrorism:

الْإِرْهَابُ هُوَ الْعُدْوَانُ الَّذِي يُمَارِسُهُ أَفْرَادٌ أَوْ جَمَاعَاتٌ أَوْ دَوْلٌ بَغْيًا عَلَى الْإِنْسَانِ:
دِينِهِ، وَدَمِهِ، وَعَقْلِهِ، وَمَالِهِ، وَعَرْضِهِ. وَيَشْمَلُ صُنُوفَ التَّخَوِيفِ وَالْأَذَى وَالسَّهْدِيدِ

¹ Al-Ṭūsī, *al-Iqtisād al-hādī ilā ṭarīq al-rashād*, p. 315.

² Al-Ṭabarsī, *al-Muʿtalif min al-mukhtalif*, 2:377.

وَالْقَتْلَ بِغَيْرِ حَقٍّ وَمَا يَتَّصِلُ بِصُورِ الْحَرَابَةِ وَإِخَافَةِ السَّبِيلِ وَقَطْعِ الطَّرِيقِ، وَكُلَّ فِعْلٍ مِنْ أَفْعَالِ الْعُنْفِ أَوْ التَّهْدِيدِ، يَفْعُ تَنْفِيذًا لِمَشْرُوعِ إِجْرَامِيٍّ فَرْدِيٍّ أَوْ جَمَاعِيٍّ، وَيَهْدَفُ إِلَى إِلْقَاءِ الرُّعْبِ بَيْنَ النَّاسِ، أَوْ تَرْوِيْعِهِمْ بِأَيْدَانِهِمْ، أَوْ تَعْرِيزِ حَيَاتِهِمْ أَوْ حُرِّيَّتِهِمْ أَوْ أَمْنِهِمْ أَوْ أَحْوَالِهِمْ لِلْخَطَرِ، وَمِنْ صُنُوفِهِ إِلْحَاقُ الصَّرْرِ بِالْبَيْتَةِ أَوْ بِأَحَدِ الْمَرَافِقِ وَالْأَمْلَاقِ الْعَامَّةِ أَوْ الْخَاصَّةِ، أَوْ تَعْرِيزِ أَحَدِ الْمَوَارِدِ الْوُطَيْيَّةِ، أَوْ الطَّبِيعِيَّةِ لِلْخَطَرِ، فَكُلُّ هَذَا مِنْ صُورِ الْفَسَادِ فِي الْأَرْضِ الَّتِي نَهَى اللَّهُ سُبْحَانَهُ وَتَعَالَى الْمُسْلِمِينَ عَنْهَا: ﴿وَلَا تَبِعِ الْفَسَادَ فِي الْأَرْضِ إِنَّ اللَّهَ لَا يُحِبُّ الْمُفْسِدِينَ﴾. وَقَدْ شَرَعَ اللَّهُ الْجَزَاءَ الرَّادِعَ لِلْإِرْهَابِ وَالْعُدْوَانِ وَالْفَسَادِ، وَعَدَّهُ مُحَارَبَةَ اللَّهِ وَرَسُولِهِ ﷺ: ﴿إِنَّمَا جَزَاؤُا الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خَلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ جِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ﴾

وَلَا تُوجَدُ فِي أَيِّ قَانُونٍ بَشَرِيٍّ عُقُوبَةٌ بِهَذِهِ الشَّدَةِ نَظْرًا لِخَطُورَةِ هَذَا الْإِعْتِدَاءِ، الَّذِي يُعَدُّ فِي الشَّرِيعَةِ الْإِسْلَامِيَّةِ حَرْبًا صِدِّ حُدُودِ اللَّهِ، وَصِدِّ خَلْقِهِ. وَيُؤَكِّدُ الْمَجْمَعُ أَنَّ مِنْ أَنْوَاعِ الْإِرْهَابِ: إِزْهَابِ الدَّوْلَةِ، وَمِنْ أَوْصَحِ صُورِهِ وَأَشَدِّهَا شَاعَةً الْإِرْهَابَ الَّذِي يُمَارَسُهُ الْيَهُودُ فِي فِلَسْطِينِ، وَمَا مَارَسَهُ الصَّرْبُ فِي كُلِّ مِنَ الْيُوسَنَةِ وَالْهَرَسَكِ وَكَوَسُوفَا، وَرَأَى الْمَجْمَعُ أَنَّ هَذَا النَّوعَ مِنَ الْإِرْهَابِ مِنْ أَشَدِّ أَنْوَاعِهِ خَطَرًا عَلَى الْأَمْنِ وَالسَّلَامِ فِي الْعَالَمِ، وَعَدَّ مُوَاجَهَتَهُ مِنْ قُبَيْلِ الدَّفَاعِ عَنِ النَّفْسِ، وَالْجِهَادِ فِي سَبِيلِ اللَّهِ.

Terrorism is aggression perpetrated by individuals, groups or states in a spirit of oppression against one's religion, blood, reason, wealth or honour. It comprises all types of fear-inducing behaviours, harms and threats, including armed burglary, the spreading of fear amongst travellers and acts of highway robbery. It covers all acts of violence or threats to commit individual or group crimes for the sake of striking fear amongst people or terrifying them through threats of causing harm to them or endangering

their lives, freedom, security or general conditions. Included in the types of terrorism is the endangering of national or natural resources or the damaging of public utilities or private properties. All of the above are types of mischief on earth which God prohibited Muslims from committing when He said in the Qur'ān: *'And seek not mischief in the earth. Indeed, God does not like those who spread mischief.'*¹ God has legislated a rigorous punishment for terrorism, aggression and corruption and regarded them as acts of war against God and His Messenger ﷺ: *'Indeed, those who wage war against God and His Messenger [i.e., perpetrate terrorism, robbery and burglary amongst people], and remain engaged in creating mischief in the land, their punishment is that they should be slain, or crucified, or their hands and their feet on opposite sides should be cut off, or that they should be exiled from the land. That is for them a humiliation in this world, and for them there is a terrible torment in the Hereafter.'*²

There is not to be found any man-made law that prescribes such a severe punishment that is commensurate with the severity of this crime—a crime that the Shariah considers as war against the limits set by God, and against His creation. This council reiterates its stance that state-terrorism is a type of terrorism, and that its clearest examples are the acts of terror perpetrated by the Jews in Palestine and the Serbs in Bosnia Herzegovina and Kosovo. It is the view of this council that state-terror is the most dangerous form of terror threatening world security and peace, and it is this council's view that countering this state-terror is self-defence and jihad in the path of God.

¹ Qur'ān 28:77.

² Ibid., 5:33.

8.4 THE LEGAL DEFINITION OF ‘UNLAWFUL WARFARE’ AND ‘ILLEGAL FIGHTERS’

Some religious scholars have used the word ‘rebel’ to mean ‘illegal fighter’ [*muḥārib*] and others have differentiated between a rebel and an illegal fighter and described different ways of dealing with both. Imam Ibn Humām said,

بِأَنَّهُمْ الْخَارِجُونَ بِلَا تَأْوِيلٍ بِمَنْعَةٍ وَبِلَا مَنَعَةٍ يَأْخُذُونَ أَمْوَالَ النَّاسِ، وَيَقْتُلُونَهُمْ
وَيُخَيِّفُونَ الطَّرِيقَ.

‘They [*muḥāribūn*] are those who rebel without a self-styled interpretation [justifying it on religious grounds], with or without force of arms, and who steal people’s wealth, kill them and spread terror on the road’.¹

Imam Ibn ‘Abd al-Barr also defined robbers, brigands and illegal fighters as those who shed blood and violate the dignity and honour of others. He said,

كُلُّ مَنْ قَطَعَ السَّبِيلَ وَأَخَافَهَا، وَسَعَى فِي الْأَرْضِ فَسَادًا بِأَخْذِ الْمَالِ، وَاسْتَبَاحَةَ
الدِّمَاءِ، وَهَتَكَ مَا حَرَّمَ اللَّهُ هَتَكَهُ مِنَ الْمَحَارِمِ فَهُوَ مُحَارِبٌ.

‘Every individual who blocks the roads, spreads fear, sows corruption on the earth by seizing wealth and shedding blood and violates those whose honour God has made inviolable [i.e., chaste women] is an illegal fighter [*muḥārib*’].²

8.5 THE DISTINGUISHING CHARACTERISTICS OF REBELS

Imam al-Kāsānī, one of the notable jurists of the Ḥanafī school, said:

الْبُعَاةُ هُمُ الْخَوَارِجُ. وَهُمْ قَوْمٌ مِنْ رَأْيِهِمْ أَنَّ كُلَّ ذَنْبٍ كُفِّرَ كَبِيرَةً كَانَتْ أَوْ صَغِيرَةً،

¹ Ibn Humām, *Fath al-Qadīr*, 6:99; al-Māwardī, *al-Iqnāʿ*, p. 143.

² Ibn ‘Abd al-Barr, *al-Kāfī fī fiqh Ahl al-Madīna*, 2:1087; al-Dardīr, *al-Sharḥ al-ṣaghīr*, 4:492–493.

يَخْرُجُونَ عَلَى إِمَامٍ أَهْلِ الْعَدْلِ. وَيَسْتَحِلُّونَ الْقِتَالَ وَالْدِّمَاءَ وَالْأَمْوَالَ بِهَذَا التَّأْوِيلِ
وَلَهُمْ مَنَعَةٌ وَقُوَّةٌ.

The rebels [*bughāt*] are the Kharijites, and they are a folk who believe that every sin is disbelief, whether it is a major or a minor sin. They rebel against the Muslim state, and with this self-styled interpretation they believe it is lawful to kill, shed blood and seize wealth; and they possess force and strength.¹

In his well-known marginalia, *Hāshiya al-Bujayrimī*, Sulaymān b. ʿUmar b. Muhammad al-Shāfiʿī wrote:

أَمَّا الْخَوَارِجُ: وَهُمْ صِنْفٌ مِنَ الْمُبْتَدِعَةِ. قَائِلُونَ: بَأَنَّ مَنْ أَتَى كَبِيرَةَ كَفْرٍ وَحَبِطَ عَمَلُهُ
وَحُلِدَ فِي النَّارِ وَأَنَّ دَارَ الْإِسْلَامِ بِظُهُورِ الْكِبَائِرِ بِهَا تَصِيرُ دَارَ كُفْرٍ.

As for the Kharijites, they are a group from the innovators who assert that when someone commits a grave sin, he has disbelieved, his good deeds are null, and that he will abide eternally in Hell. They also believe that the lands of Islam become lands of disbelief when enormities are committed in them.²

In his book *al-Mughnī*, Imam Ibn Qudāma al-Maqdisī penned a chapter on the subject of fighting rebels. Referring to verses nine and ten of *Sūra al-Ḥujurat*, he described the religious prescription regarding rebels and described the various kinds of Kharijites:

الْخَارِجُونَ عَنِ قَبْضَةِ الْإِمَامِ أَصْنَافٌ أَرْبَعَةٌ:
أَحَدُهَا: قَوْمٌ امْتَنَعُوا مِنْ طَاعَتِهِ وَخَرَجُوا عَنْ قَبْضَتِهِ بَعِيرٍ تَأْوِيلٌ، فَهَؤُلَاءِ قُطَاعٌ طَرِيقِ
سَاعُونَ فِي الْأَرْضِ بِالْفَسَادِ.

الثَّانِي: قَوْمٌ لَهُمْ تَأْوِيلٌ إِلَّا أَنَّهُمْ نَفَرٌ يَسِيرٌ لَا مَنَعَةَ لَهُمْ كَالْوَالِدِ وَالْإِنْتِيسِ وَالْعَشْرَةِ
وَنَحْوِهِمْ. فَهَؤُلَاءِ قُطَاعٌ طَرِيقِ فِي قَوْلِ أَكْثَرِ أَصْحَابِنَا، وَهُوَ مَذْهَبُ الشَّافِعِيِّ لِأَنَّ

¹ Al-Kāsānī, *Badāʿiʿ al-ṣanāʿiʿ*, 7:140.

² Sulaymān al-Bujayrimī, *al-Hāshiya*, 4:201.

ابْنُ مُلْجَمٍ لَمَّا جَرَحَ عَلِيًّا عليه السلام قَالَ لِلْحَسَنِ: إِنَّ بَرِيئَتُ رَأَيْتُ رَأْيِي، وَإِنْ مِتُّ فَلَا تُمَثِّلُوا بِهِ.

الثَّالِثُ: الْخَوَارِجُ الَّذِينَ يُكْفِرُونَ بِالذَّنْبِ وَيُكْفِرُونَ عُثْمَانَ وَعَلِيًّا وَطَلْحَةَ وَالرُّبَيْعَ وَكَثِيرًا مِنَ الصَّحَابَةِ وَيَسْتَجِلُّونَ دِمَاءَ الْمُسْلِمِينَ وَأَمْوَالَهُمْ إِلَّا مَنْ خَرَجَ مَعَهُمْ.

الرَّابِعُ: قَوْمٌ مِنْ أَهْلِ الْحَقِّ يَخْرُجُونَ عَنْ قَبِيضَةِ الْإِمَامِ وَيُرْوَمُونَ خَلْعَهُ لِنَأْوِيلِ سَائِعٍ، وَفِيهِمْ مَنَعَةٌ يَحْتَاجُ فِي كَفِّهِمْ إِلَى جَمْعِ الْجَيْشِ. فَهَؤُلَاءِ الْبُعَاةُ الَّذِينَ نَذَرُوا فِي هَذَا الْبَابِ حُكْمَهُمْ وَوَجِبَ عَلَى النَّاسِ مَعُونَةُ إِمَامِهِمْ فِي قِتَالِ الْبُعَاةِ . . . لِأَنَّهُمْ لَوْ تَرَكَوا مَعُونَتَهُ لَفَهَرَهُ أَهْلُ الْبُعْغِيِّ وَظَهَرَ الْفَسَادُ فِي الْأَرْضِ.

Those who are outside of the writ of the government and its authority are four categories:

[1] The first category is of those who refuse to obey the writ of the government and who rebel against it without a self-styled interpretation. They are brigands who spread mischief in the land.

[2] The second category is of those who have a self-styled interpretation, but they are a miniscule party without power, such as one or two people, or ten and the like. According to the position of most of our [Hanbali] colleagues [and the position of al-Shāfi‘ī], they are brigands, because when Ibn Muljam¹ stabbed ‘Alī, [‘Alī] said to al-Ḥasan, ‘If I recover from this I will decide about him, and if I die do not mutilate his corpse’.

[3] The third category is of those who are Kharijites: those who declare [others] disbelievers because of sins, and who declare ‘Uthmān, ‘Alī, Ṭalḥa, Zubayr and many of the Companions disbelievers. And they believe that it is lawful to shed the blood of the Muslims and seize their wealth—except those of them who rebel along with them.

[4] The fourth category is of a folk from the people of truth [i.e., the Muslims] that rebel against the Muslim

¹ ‘Abd al-Raḥmān b. Muljam al-Murādī, the Kharijite who assassinated ‘Alī

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government due to a self-styled interpretation, and they seek, with force of arms and strength, to overthrow the government.¹

Just as the jurists concur on the definition of rebels, so too they agree on their distinguishing characteristics. Their first characteristic is that they declare Muslims disbelievers and justify extremism through their erroneous interpretation of the religion, issuing verdicts of disbelief against the Muslims and the corrupt rulers in the Muslim lands. Their characteristics are similar to those of the Kharijites. Thus, the judgment of the fourth Caliph, ‘Alī رضي الله عنه, against the Kharijites of his day is equally applicable to their modern counterparts.

¹ Ibn Qudāma al-Maqdisī, *al-Mughnī*, 9:3, 5.